

IN THE DISTRICT COURT OF SAUNDERS COUNTY, NEBRASKA

JBGB INVESTMENTS, L.L.C., A )  
NEBRASKA LIMITED LIABILITY )  
COMPANY, )

Plaintiff, )

vs. )

ALTEN, LLC, A KANSAS LIMITED )  
LIABILITY COMPANY; CORTLAND )  
CAPITAL MARKET SERVICES, LLC, AS )  
BENEFICIARY; FIDELITY NATIONAL )  
TITLE INSURANCE COMPANY, AS )  
TRUSTEE; PUCK CUSTOM )  
ENTERPRISES, INC., AN IOWA )  
CORPORATION; JOHN DOE AND JANE )  
DOE, REAL NAMES AND MARITAL )  
STATUS UNKNOWN; AND ALL OTHER )  
PERSONS AND ENTITIES, REAL )  
NAMES UNKNOWN, HAVING ANY )  
RIGHT, TITLE OR INTEREST IN THE )  
REAL ESTATE DESCRIBED BELOW, )

CASE NO. CI 20-\_\_\_\_\_

COMPLAINT  
(Equity)

Defendants.

COMES NOW the Plaintiff, JBGB Investments, L.L.C., a Nebraska limited liability company, and for its cause of action against the several Defendants, and each of them, states and alleges as follows:

1. The Plaintiff is a Nebraska limited liability company with its principal office in Lancaster County, Nebraska and is doing business in the State of Nebraska.
2. The Defendant, AltEn, LLC, is a Kansas limited liability company and is the record owner of the real estate legally described as:

A TRACT OF LAND LOCATED IN SECTION 12, TOWNSHIP 14 NORTH, RANGE 8 EAST OF THE SIXTH P.M. SAUNDERS COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 12; THENCE S86°28'38"E (ASSUMED BEARING) ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12, A DISTANCE OF 2702.78 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE S87°48'28"E ON THE NORTH LINE OF SAID NORTHEAST QUARTER, A

DISTANCE OF 2837.68 FEET TO THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE S00°03'34"W ON THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 2641.98 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 12; THENCE S00°04'47"W ON THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 710.38 FEET; THENCE N89°16'07"W, A DISTANCE OF 820.00 FEET; THENCE N00°43'53"E, A DISTANCE OF 475.00 FEET; THENCE N89°16'07"W, A DISTANCE OF 840.00 FEET; THENCE S09°18'57"W, A DISTANCE OF 150.00 FEET; THENCE S16°53'18"W, A DISTANCE OF 160.00 FEET; THENCE S00°43'53"W, A DISTANCE OF 173.00 FEET; THENCE N89°16'07"W, A DISTANCE OF 936.34 FEET; THENCE S03°35'54"W, A DISTANCE OF 267.34 FEET; THENCE N89°43'22"W, A DISTANCE OF 1459.11 FEET; THENCE N00°16'38"E, A DISTANCE OF 440.00 FEET; THENCE N89°43'22"W, A DISTANCE OF 315.00 FEET; THENCE S00°16'38"W, A DISTANCE OF 440.00 FEET; THENCE N89°43'22"W, A DISTANCE OF 986.36 FEET; TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE N01°19'42"W ON SAID WEST LINE, A DISTANCE OF 1183.66 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE N01°19'50"W ON THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2663.80 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 438.12 ACRES, MORE OR LESS.

EXCEPT

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 14 NORTH, RANGE 8 EAST OF THE SIXTH P.M., SAUNDERS COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 12; THENCE S01°19'42"E (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 281.09 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORD IN BOOK 423, PAGE 1097, AND THE POINT OF BEGINNING; THENCE S86°29'47"E ON THE SOUTH LINE OF SAID PREVIOUSLY DESCRIBED PARCEL, A DISTANCE OF 461.91 FEET; THENCE CONTINUING ON SAID SOUTH LINE S84°20'41"E, A DISTANCE OF 492.02 FEET; THENCE S00°00'00"E, A DISTANCE OF 167.43 FEET; THENCE S35°51'17"W, A DISTANCE OF 414.76 FEET; THENCE S00°00'00"E, A DISTANCE OF 179.23 FEET; THENCE S89°43'32"E, A DISTANCE OF 300.31 FEET TO SAID SOUTH LINE; THENCE CONTINUING ON SAID SOUTH LINE S00°16'38"W, A DISTANCE OF 146.05; THENCE CONTINUING ON SAID SOUTH LINE N89°43'22"W A DISTANCE OF 986.36 FEET TO THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE N01°19'42"W ON SAID WEST LINE, A DISTANCE OF 902.74 FEET TO THE POINT OF BEGINNING, CONTAINING 17.03 ACRES, MORE OR LESS.

EXCEPT

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 12 AND ASSUMING THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12 TO HAVE A BEARING OF N01°19'50"W; THENCE S86°28'41"E ON THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2702.80 FEET TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE S87°48'27"E ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 12, A DISTANCE OF 2837.66 FEET TO THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE

S00°03'32"W ON THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 2641.97 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE S00°04'57"W ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 12, A DISTANCE OF 135.00 FEET; THENCE N86°22'50"W, A DISTANCE OF 142.18 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ON A 900.00 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 210.00 FEET TO A POINT OF TANGENCY, THE CHORD OF SAID CURVE BEARS S86°56'06"W, A CHORD DISTANCE OF 209.52 FEET; THENCE N76°53'48"W, A DISTANCE OF 182.30 FEET; THENCE N88°57'06"W, A DISTANCE OF 964.00 FEET; THENCE S87°52'00"W, A DISTANCE OF 130.00 FEET; THENCE N89°55'01"W, A DISTANCE OF 500.00 FEET; THENCE N89°18'23"W, A DISTANCE OF 307.00 FEET; THENCE N85°31'00"W, A DISTANCE OF 179.00 FEET; THENCE N09°36'16"W, A DISTANCE OF 116.00 FEET; THENCE N04°14'48"W, A DISTANCE OF 102.00 FEET; THENCE N00°47'47"E, A DISTANCE OF 520.00 FEET; THENCE N00°46'01"W, A DISTANCE OF 613.00 FEET; THENCE N89°45'34"W, A DISTANCE OF 925.00 FEET; THENCE S01°04'03"W, A DISTANCE OF 1251.46 FEET; THENCE S88°48'35"W, A DISTANCE OF 430.39 FEET; THENCE S01°21'51"W, A DISTANCE OF 181.00 FEET; THENCE N84°21'01"W, A DISTANCE OF 987.00 FEET; THENCE N86°30'16"W, A DISTANCE OF 462.00 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE N01°19'52"W ON SAID WEST LINE, A DISTANCE OF 281.16 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE N01°19'50"W ON THE WEST LINE OF SAID NORTHWEST, A DISTANCE OF 2663.79 FEET TO THE POINT OF BEGINNING.

3. The Plaintiff is the owner and holder of Saunders County Treasurer's Public Tax Sale Certificate No. PU002564 (the "Certificate of Tax Sale"), which is the subject of this foreclosure action on the above-described real state, as set forth in the Certificate of Tax Sale, issued by Saunders County, Nebraska, for all delinquent regular taxes and special assessments thereon for the years set forth therein, under the provisions of Neb. Rev. Stat. § 77-1809 and amendments thereto, the above-described real estate, having been regularly advertised and offered remaining unsold for want of bidders, was sold to the Plaintiff's assignor and was subsequently assigned to the Plaintiff. A copy of the Certificate of Tax Sale is attached hereto, marked as Exhibit "A" and incorporated herein by this reference. The Plaintiff is, therefore, entitled to foreclose on the above-described real estate for payment of the Certificate of Tax Sale.

4. The Certificate of Tax Sale has not been redeemed nor have the subsequent taxes paid by the Plaintiff, or any part thereof, been paid by the Defendants, or any of them, except as set forth herein. There is due thereon to the Plaintiff the original amount of the Certificate of Tax Sale in the sum of \$249,245.09 with interest thereon at the rate of fourteen percent (14%) per annum from and after the date(s) of delinquency thereof and any subsequent taxes levied and

assessed against the above-described real estate which have been paid by the Plaintiff, with interest thereon as provided by law. No proceedings have been had at law for the collection of any part thereof and the Plaintiff is entitled to foreclosure of this lien.

5. Taxes and special assessments for the year(s) set forth in the Certificate of Tax Sale were duly and lawfully levied and assessed by the proper officials upon the above-described real estate and thereafter became delinquent and were sold at public auction on March 8, 2017. All proceedings had with respect to each such item of tax and special assessment were legal and lawful and all requirements and prerequisites of law were met and complied with by all officers and persons whose duty it was to have any part therein. All such taxes and assessments so levied are a valid existing first lien upon the above-described real estate. Subsequent regular taxes were duly levied and assessed against said real estate and have become and now are added liens against said real estate. All future taxes levied will become added liens against said real estate, according to law.

6. The Defendants designated as such with respect to the above-described real estate are the owners thereof, or are in possession thereof, or claim or appear to have some interest therein or lien thereon, as alleged; the Defendants designated as spouses of the Defendants appear to have some interest therein by reason of such marital relation; but that whatever right, title or interest the Defendants, or any of them, may claim or appear to have are junior, inferior and subject to the Plaintiff's first liens.

7. The Plaintiff has reason to believe that there are persons who have or who claim or appear to have some interest in, right or title to, or lien upon, the above-described real estate, and that the ownership of, interest in, rights or title to, or lien upon such property of such persons does not appear of record in or by their respective names in Saunders County, Nebraska. The Plaintiff and its attorneys, after diligent investigation and inquiry, are unable to ascertain and do not know the names or whereabouts, if in this state, or the residence or places of abode of such persons; and for such reason the above-described real estate has been made and is a party Defendant in this action, along with all persons having or claiming any interest in said real estate, real names unknown. The interests of the Defendants, if any, are junior, inferior and subject to the Plaintiff's first liens.

8. In all cases where persons have died owning, claiming or appearing to have any interest in the above-described real estate and no complete administration of their respective

estates nor legal determination of heirship has been had in the State of Nebraska, the Plaintiff and its attorneys have made diligent investigation and inquiry; that, except as to the persons shown or recorded to have conveyed any purported interest as heirs at law or devisees of the deceased, and except as to the Defendants alleged to be the heirs at law or devisees of such deceased, the Plaintiff and its attorneys, after diligent investigation and inquiry, have been unable to ascertain and do not know the names, residences, places of abode, or whereabouts, if in this State, of the heirs, devisees, legatees, personal representatives, or other persons interested in the estate of such deceased persons, and any that there may be are joined herein as Defendants under the designation, all other persons and entities, real names unknown, having any right, title or interest in said real estate.

9. In all instances where any person owning, claiming or appearing to have any interest in the above-described real estate conveyed his or her interest by instrument appearing of record without his or her marital status being shown of record and without any conveyance of record by his or her spouse, the Plaintiff and its attorneys have made diligent investigation and inquiry, but, after diligent investigation and inquiry, have been unable to ascertain and do not know whether such person or persons were married or single, except as herein alleged; or, if married, the name, residence or whereabouts, if in this State, of any such spouse; or the names, residences, places of abode or whereabouts, if in this State, of the heirs, devisees, legatees, personal representatives, or other persons interested in the estates of such spouses; and any that there may be are joined as Defendants herein under the designation, all other persons and entities, real names unknown, having any right, title or interest in said real estate.

10. The Defendants, Cortland Capital Market Services, LLC, as Beneficiary, and Fidelity National Title Insurance Company, as Trustee, may claim right, title or interest in the above-described real estate by virtue of a Construction Security Agreement, Deed of Trust, Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing executed by AltEn, LLC to secure the sum of \$160,000,000.00, dated September 12, 2014, and recorded on September 17, 2014, in Book 453, Page 1203-1218 and as Instrument No. 2014-09-176, with a Modification recorded on December 31, 2015, in Book 470, Page 722-729 and as Instrument No. 2015-12-326, all in the Office of the Register of Deeds of Saunders County, Nebraska, but any right, title or interest of said Defendants is junior, inferior and subject to Plaintiff's first liens.

11. The Defendant, Puck Custom Enterprises, Inc., an Iowa corporation, may claim right, title or interest in the above-described real estate by virtue of a lawsuit in the District Court of Saunders County, Nebraska at Case No. CI 19-17, in the case entitled *Puck Custom Enterprises, Inc., Plaintiff, v. AltEn, LLC, Defendant*, but any right, title or interest of said Defendant is junior, inferior and subject to Plaintiff's first liens.

12. The Defendants designated as John Doe and Jane Doe, real names and marital status unknown, may claim some interest in or lien upon the above-described real estate described herein by virtue of their occupancy of said real estate, but any such interest or lien of the Defendants, John Doe and Jane Doe, real names and marital status unknown, is junior, inferior and subject to Plaintiff's first liens.

13. Three (3) years have elapsed since the issuance of the Certificate of Tax Sale and by reason thereof the right of redemption of the owners or claimants of the above-described real estate has expired and should be foreclosed.

14. The Plaintiff has incurred an expense of \$125.00 for a title search necessary to determine the parties who may have a claim against or interest in the above-described real estate and such sum should be recovered as costs herein.

15. The Plaintiff is entitled to attorneys' fees, as provided by law, in an amount equal to ten percent (10%) of the amounts due for taxes, special assessments, interest, and costs, to be taxed as a part of the costs of this action.

WHEREFORE, the Plaintiff prays that his rights and interests in the above-described real estate be protected; that an accounting be had of the amounts due the Plaintiff on the Certificate of Tax Sale indebtedness and indebtedness for any subsequent taxes levied and assessed against the above-described real estate paid by the Plaintiff; that the Court decree that the Plaintiff's Certificate of Tax Sale constitutes a first and paramount lien upon the above-described real estate, as set forth in the Certificate of Tax Sale; that whatever interest in, right or title to or lien upon said real estate the Defendants or any of them may have, the same is junior, inferior and subject to the Plaintiff's first lien; that the Defendants or some one of them be required to pay such indebtedness; that in default of such payment for a period of twenty (20) days from the entry of the Decree herein, the Defendants, and each of them, be forever barred and foreclosed of all right, title, lien, equity of redemption, or other interest in, to and upon said real estate; that an Order of Sale be issued for the sale of said real estate as provided by law and directing that said

real estate be sold upon execution and directing that the proceeds of such sale shall first be applied to the amount adjudged to be due the Plaintiff on the Certificate of Tax Sale indebtedness, together with interest thereon, attorneys' fees as provided by law, and the Plaintiff's costs of this action; that upon the sale of said real estate and upon the payments by the purchaser of all subsequent taxes which shall have accrued, the purchaser or purchasers thereof shall take a good and indefeasible title to said real estate so purchased, and shall be placed in possession of the same upon confirmation of the sale; that upon the occurrence of the redemption of the Certificate of Tax Sale during the pendency of this action, the Plaintiff receive attorneys' fees, as provided by law, in an amount equal to ten percent (10%) of the amount due with interest and costs; and that the Plaintiff shall have such other and further relief as the Court may deem just and equitable.

DATED: March 9, 2020.

JBGB INVESTMENTS, L.L.C., Plaintiff

By:   
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SAUNDERS COUNTY TREASURER'S  
PUBLIC TAX SALE CERTIFICATE  
STATE OF NEBRASKA

I, MARILYN L KELLEY Treasurer of SAUNDERS County in the State of Nebraska do hereby certify that the following described real estate in said County and State was duly sold for taxes at PUBLIC SALE in the manner provided by law. I further certify that unless redemption is made of said real estate taxes in the manner provided by law, the stated purchasers, heirs or assigns, will be entitled to a deed therefore on and after three years from the date of purchase, on surrender of this Certificate, and compliance with the provisions required by law.

Fee: 20.00

TRANS FROM ELISABETH PFLANZ

Purchaser: JBGB INVESTMENTS, LLC  
ID # 0161 741 PIER 2  
LINCOLN, NE 68528

Assigned To: TRANS FROM ELISABETH PFLANZ 5/  
Date: 05/01/2017

Certificate Number: PU002564

Tax Years Sold For: 2015, 2015

Amount of Certificate, Including Interest and Advertising: 249,245.09

Legal Description: Parcel # 2697002 Perm ID# 2697002  
BAL N1/2 & PT N1/2 S1/2 12-14-8 (92.27  
ACRES)

1344 COUNTY ROAD 10

Date of Sale: 3/ 8/2017

Last Date of Redemption: 3/ 8/2020

In Witness whereof, I hereunto set my hand and seal on the day of: 5/ 1/2017

Marilyn L Kelley  
MARILYN L KELLEY  
SAUNDERS COUNTY TREASURER

\_\_\_\_\_  
BY DEPUTY

SUBSEQUENT TAXES: May be purchased as they become delinquent.

Date of Redemption : \_\_\_\_\_

Redemption Number : \_\_\_\_\_

Amount of Redemption : \_\_\_\_\_

Redeemed by : \_\_\_\_\_

Sales of delinquent taxes are conducted pursuant to Neb. Rev. Stat. 77-1801 et seq.

Ex. "A"